

**REPORT OF THE COMMITTEE ON LEGISLATION,
INTERGOVERNMENTAL & VETERANS RELATIONS**

September 13, 2010

The Honorable,
The Board of Commissioners of Cook County

ATTENDANCE

Present: Chairman Suffredin, Vice Chairman Silvestri, Commissioners Beavers, Butler, Claypool, Collins, Daley, Gainer, Gorman, Goslin, Moreno, Murphy, Peraica, Reyes, Schneider and Sims (16)

Absent: Commissioner Steele (1)

Also Present: Zelda Whitler, Undersheriff, Cook County Sheriff's Office

Ladies and Gentlemen:

Your Committee on Legislation, Intergovernmental & Veterans Relations of the Board of Commissioners of Cook County met pursuant to notice on Monday, September 13, 2010 at the hour of 11:00 A.M. in the Board Room, Room 569, County Building, 118 North Clark Street, Chicago, Illinois.

Your Committee has considered the following items and, upon adoption of this report, the recommendations are as follows:

308428 AN ORDINANCE AMENDMENT TO THE ILLINOIS STATE CRIME COMMISSION'S VETERANS EQUITY TRANSITION PROPOSAL FOR POST 9-11 VETERANS OF THE UNITED STATES MILITARY (PROPOSED ORDINANCE AMENDMENT). Submitting a Proposed Ordinance Amendment sponsored by William M. Beavers, County Commissioner; Co-sponsored by The Honorable Todd H. Stroger, President, Jerry Butler, Forrest Claypool, Earlean Collins, John P. Daley, Bridget Gainer, Elizabeth "Liz" Doody Gorman, Gregg Goslin, Joseph Mario Moreno, Joan Patricia Murphy, Anthony J. Peraica, Edwin Reyes, Timothy O. Schneider, Peter N. Silvestri, Deborah Sims, Robert B. Steele and Larry Suffredin, County Commissioners.

The following is a synopsis of the Proposed Ordinance Amendment:

PROPOSED ORDINANCE AMENDMENT

**THE ILLINOIS STATE CRIME COMMISSION'S VETERANS EQUITY
TRANSITION PROPOSAL FOR POST 9-11 VETERANS OF THE UNITED
STATES MILITARY**

WHEREAS, the Cook County Veterans Preference and Qualified Veteran Owned Business Incentive Acts serves as mechanisms to assist those persons who served in active duty in the United States military under conditions as set forth below; and

NOW, THEREFORE, BE IT ORDAINED, by the Cook County Board of Commissioners that Chapter 34 Finance, Section 34-158 of the Cook County Code is hereby amended as follows:

Sec. 34-158. Preference to citizens on public works projects.

(a) The Purchasing Agent shall specify in the call for bids for any contract for public works that contractors bidding on public works contracts of the County shall conform to the Public Works Preference Act (30 ILCS 560/0.01 et seq.). The Purchasing Agent in awarding the contract shall cause to be inserted in any contract for public works a stipulation to the effect that the contractor shall conform to such Act.

(b) Veterans preference. A preference will be given to bidders that utilize at least five percent of eligible veterans of the United States Armed Forces as defined in this Article who are bona fide veterans of a post-September 11, 2001 military conflict and are County residents.

(1) For purposes of this section, in the employment and appointment to fill positions in the construction, addition to, or alteration of all public works undertaken or contracted for by the County, preference shall be given to persons who have been members of the armed forces of the United States or who, while citizens of the United States, were members of the armed forces of allies of the United States in time of hostilities occurring after September 11, 2001, with a foreign country, and have served under one or more of the following conditions:

- a. The veteran served a total of at least 6 months, or
- b. The veteran served for the duration of hostilities regardless of the length of engagement; or
- c. The veteran served in the theater of operations but was discharged on the basis of a hardship; or
- d. The veteran was released from active duty because of a service connected disability and was honorably discharged.

BE IT FURTHER ORDAINED, by the Cook County Board of Commissioners that Chapter 34 Finance, Section 34-160 of the Cook County Code is hereby enacted as follows:

Sec. 34-160. Qualified veteran owned business incentive.

(a) Qualified veteran owned business means a business entity that is 51% or more owned by one or more veterans as defined in Sec. 34-158(b)(1).

(b) In awarding a contract under this section, the Purchasing Agent shall give a preference of up to 5% of the amount of the contract to a qualified veteran owned business. If the qualified veteran owned business otherwise meets the requirements of the contract solicitation and with the preference is the lowest bidder, the purchasing agent shall enter into a procurement contract with the qualified veteran owned business under this act. If two or more qualified veteran owned businesses are the lowest bidders on a contract, all other things being equal, the qualified veteran owned business with the lowest bid shall be awarded the contract under this act.

(c) It is the goal of the County to award each year not less than 5% of its total expenditures for construction, goods, and services to qualified veteran owned businesses. The purchasing agent may count toward its 5% yearly goal described in this subsection that portion of all procurement contracts in which the business entity that received the procurement contract subcontracts with a qualified veteran owned business. Each year, the Purchasing Agent shall report to the Board of Commissioners on all of the following for the immediately preceding twelve month period:

- (1) The number of qualified veteran owned businesses who submitted a bid for a County procurement contract.
- (2) The number of qualified veteran owned businesses who entered into procurement contracts with this county and the total value of those procurement contracts.
- (3) Whether the county achieved the goal described in this subsection.
- (4) Each year, the Purchasing Agent shall review the progress of all County agencies in meeting the 5% goal with input from countywide veterans service organizations and from the business community including qualified veteran owned businesses, and shall make recommendations to the Board of Commissioners regarding continuation, increases, or decreases in the percentage goal. The recommendations shall be based upon the number of qualified veteran owned business and on the continued need to encourage and promote businesses owned by qualified veterans.
- (5) The President shall recommend to the Board of Commissioners changes in programs to assist qualified veteran owned businesses.

(d) Any person who knowingly and willfully violates the provisions of this Act, is guilty of a petty offense and shall be fined not less than \$75 nor more than \$300 for each offense.

Effective Date: This Ordinance Amendment shall take effect immediately upon adoption.

***Referred to the Legislation, Intergovernmental & Veterans Relations Committee on 09-01-10.**

Commissioner Beavers, seconded by Commissioner Murphy, moved the approval of Communication No. 308428. The motion carried.

308429 AN AMENDMENT TO CHAPTER 34 FINANCE, ARTICLE IV PROCUREMENT AND CONTRACTS, DIVISION 6 MINORITY-AND WOMEN-OWNED BUSINESS ENTERPRISES, SUBDIVISION I GENERAL PROVISIONS, SECTION 34-285 OF THE COOK COUNTY CODE (PROPOSED ORDINANCE AMENDMENT). Submitting a Proposed Ordinance Amendment sponsored by Joseph Mario Moreno and Joan Patricia Murphy, County Commissioners; Co-Sponsored by Edwin Reyes and Peter N. Silvestri, County Commissioners

The following is a synopsis of the Proposed Ordinance Amendment.

PROPOSED ORDINANCE AMENDMENT

WHEREAS, as a result of the terrorist attacks of September 11, 2001, the United States of America has redeployed its military for the "war on terror" with personnel seeing active combat, most notably in Afghanistan and Iraq; and

BE IT ORDAINED; by the Cook County Board of Commissioners that Chapter 34 Finance, Article IV Procurement and Contracts, Sections 34-271 through 34-285 of the Cook County Code is hereby amended as follows:

ARTICLE IV. PROCUREMENT AND CONTRACTS

DIVISION 6. MINORITY-AND-WOMEN OWNED BUSINESS ENTERPRISES

<u>Sec. 34-2751.</u>	Short title.
<u>Sec. 34-2762.</u>	Purpose; policy and findings.
<u>Sec. 34-2773.</u>	Definitions.
<u>Sec. 34-2784.</u>	Staffing and responsibilities for affirmative action.
<u>Sec. 34-2795.</u>	Application of division.
<u>Sec. 34-28076.</u>	Program goals.
<u>Sec. 34-28177.</u>	Implementation.
<u>Sec. 34-28278.</u>	Professionals and consulting services and sole source agreements.
<u>Sec. 34-28379.</u>	Other Federal and State regulations.
<u>Sec. 34-2840.</u>	Preference to residents of County.
<u>Sec. 34-2851.</u>	Reporting and review <u>Preference to Service-Disabled Veteran Businesses.</u>
<u>Sec. 34-282.</u>	<u>Reporting and review.</u>
<u>Secs. 34-283-34-285.</u>	Reserved.

Effective date: This Ordinance Amendment shall be in effect immediately upon adoption.

***Referred to the Committee on Legislation, Intergovernmental & Veterans Relations Committee on 09-01-10.**

Commissioner Moreno, seconded by Commissioner Reyes, moved to approve Communication No. 308429.

Commissioner Moreno, seconded by Commissioner Murphy, moved to accept the Substitute Ordinance Amendment to Communication No. 308429. The motion carried.

Commissioner Moreno, seconded by Commissioner Murphy, moved to approve the Substitute Ordinance Amendment for Communication No. 308429 as amended. The motion carried.

**SUBSTITUTE TO ORDINANCE AMENDMENT
FOR COMMUNICATION #308429 (amendments are in bold and underlined)**

Sponsored by

**THE HONORABLE JOSEPH MARIO MORENO and JOAN PATRICIA MURPHY,
COUNTY COMMISSIONERS**

Co-Sponsored by

THE HONORABLE EDWIN REYES and PETER N. SILVESTRI, COUNTY COMMISSIONERS

WHEREAS, as a result of the terrorist attacks of September 11, 2001, the United States of America has redeployed its military for the "war on terror" with personnel seeing active combat, most notably in Afghanistan and Iraq; and

WHEREAS, the men and women of the U.S. Armed Forces selflessly serve our country and sacrifice much by placing their personal safety and ambitions second to protecting our country, our ideals and our freedom; and

WHEREAS, many veterans have incurred or aggravated disabilities while in the line of duty serving on active duty; and

WHEREAS, recognizing the extraordinary service of our veterans, President George W. Bush sought to honor veterans with disabilities by issuing Executive Order 13360 on October 20, 2004, which seeks to provide increased opportunity for service-disabled veteran businesses to participate in contracts through the Federal government; and

WHEREAS, in order to achieve this objective the President established a goal of not less than 3 percent participation for Federal contracting and subcontracting for service-disabled veteran businesses; and

WHEREAS, the County of Cook should also seek to honor and assist service-disabled veteran businesses by similarly seeking to increase the participation of said businesses in County contracts.

BE IT ORDAINED; by the Cook County Board of Commissioners that Chapter 34 Finance, Article IV Procurement and Contracts, Sec. 34-271 through 34-285 of the Cook County Code is hereby amended as follows:

ARTICLE IV. PROCUREMENT AND CONTRACTS

DIVISION 6. MINORITY-AND-WOMEN OWNED BUSINESS ENTERPRISES

Sec. 34-2751. Short title.

This division shall be known and may be cited as the Cook County Minority- and Women-Owned Business Enterprise Ordinance.

Sec. 34-2762. Purpose; policy and findings.

(a) It is the public policy of the County to ensure the full and equitable participation of minority and female owned businesses in the County's procurement process as both prime and subcontractors.

(b) The County is committed to a policy of preventing discrimination in the award of or participation in County contracts and eliminating arbitrary barriers to full participation in such contracts by all persons, regardless of race, sex, or ethnicity.

(c) Minority and women's businesses have contributed significantly to the economic development of the community, and played a similar role in increasing employment, including that of minorities.

(d) Various Federal, State and local legislative bodies and governmental agencies have adopted affirmative action programs in order to eradicate the practice of racial, ethnic and sexual discrimination in the award of public contracts.

(e) The County has heretofore adopted a Minority Business Enterprise Ordinance to ensure that minority and women's businesses are provided full and equal opportunity to participate in County contracts.

(f) The Supreme Court of the United States in *City of Richmond v. Croson*, 488 U.S. 469 (1989), has enunciated certain standards which are necessary to maintain effective affirmative action programs in compliance with constitutional requirements.

(g) The County is committed to implementing its affirmative action program in conformance with the United States Supreme Court's decision in *City of Richmond v. Croson*.

(h) In furtherance of this commitment, the Cook County Board directed the County staff and its outside consultants to conduct an investigation into the scope of any discrimination in the award of and participation in County contracts as well as in the metropolitan Chicago economy,

the extent to which such discrimination or the effects thereof has denied and continues to deny minority and women's business enterprises equal opportunity to participate in County contracts and to recommend the appropriate affirmative action steps to be taken to eliminate any such discrimination and its continuing effects.

(i) Pursuant to the County Board's direction, the County staff and its outside consultants conducted such an investigation.

(j) The County Board, having reviewed the report of the County's staff and its outside consultants and having conducted public hearings and received the testimony of witnesses, makes the following findings:

- (1) Minority and women's businesses continue to be awarded prime contracts and subcontracts in dollar amounts that are disproportionately lower than the availability of such businesses willing and able to perform County contracts.
- (2) The County's procurement practices in the past have contributed to the above identified underutilization of minority and women's businesses on County contracts.
- (3) Minority and women's businesses continue to be disadvantaged by discriminatory practices in the local construction industry and economy when competing for County contracts and in seeking subcontracting opportunities on such contracts.
- (4) The County was a passive participant in the discriminatory practices of businesses which discriminate against minority and women's businesses by entering into contracts with such businesses.
- (5) Despite its good faith efforts and implementation of previous affirmative action programs, minority and women's businesses remain at a competitive disadvantage in competing for County contracts and subcontracts.
- (6) Race and gender neutral measures or affirmative action programs without numerical goals have not and are not likely to eliminate the competitive disadvantage of minority and women's businesses in participating in County contracts due to discrimination in the local economy.
- (7) The numerical goals for the participation of minority and women's businesses in County contracts are commensurate with the availability of minority and women's businesses willing and able to perform County work.

Sec. 34-2773. Definitions.

The following words, terms and phrases, when used in this division shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bona fide resident of the County means a person whose legal and actual residency is within the County borders.

Certified or certification means registration of the Minority Business Enterprises or Women's Business Enterprise status of a business in the County's Directory of Minority Business Enterprises, Women's Business Enterprises and Disadvantaged Business Enterprises ("PCE Directory").

Commercially useful function means the performance of real and actual services in the discharge of any contractual endeavor. The contractor must perform a distinct element of work which the business has the skill and expertise to perform and have the responsibility of actually performing, managing and supervising such element of work.

Contract Compliance Administrator (CCA) means the Contract Compliance Administrator of the County.

Contractor means any person or business entity that bids on or enters into a Contract with the County, and includes all partners and all joint venturers of such person or entity.

Controlled, for purposes of determining whether a business is a minority business enterprise or women's business enterprise, means the minority or the female owner shall:

- (1) Possess and exercise the legal authority and power to manage business assets, good will and daily operations of the business; and
- (2) Actively and continuously exercise such managerial authority and power in determining the policies and directing the daily operations of the business. If the owners who are not minorities or females are disproportionately responsible for the operation of the business, then the business is not controlled by minorities or females.

County contracts means any contract, purchase order or agreement (other than a lease or collective bargaining agreement):

- (1) Where the cost is to be paid from funds belonging to or administered by the County, including such funds subject to Federal reimbursement or which requires that monies be paid to the County; and
- (2) That is Board-valued at more than \$25,000.00.

Joint venture means an association of two or more businesses formed to carry out a single business enterprise for profit, and for which purpose they combine their expertise, property, capital, efforts, skills and knowledge.

Minority Business Enterprise (MBE) means a certified participating business at least 51 percent of which is owned and controlled by one or more members of one or more minority groups or, in the case of a publicly held corporation, 51 percent of the stock is owned by one or more members of one or more minority groups and whose daily business operations are controlled by one or more such individuals. A minority group member is an individual who is one of the following:

- (1) African-American or Black (persons with origins in any of the Black racial groups of Africa);
- (2) Hispanic American (persons of Spanish culture with origins from Puerto Rico, Mexico, Cuba, South or Central America, Spain, Portugal, or the Caribbean Islands regardless of race);
- (3) Native American (American Indian);
- (4) Asian-Pacific American (persons with origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, Taiwan, or the Indian subcontinent); or
- (5) Any other ethnically or racially identifiable group found by the Contract Compliance Administrator to have suffered actual racial or ethnic discrimination resulting in a competitive disadvantage or decreased opportunities to do business with the County.

Owned means having all the customary incidents of ownership, including the right of disposition, and the sharing in all risks and profits commensurate with the degree of ownership interest.

Participating business means a business located within the counties of Cook, DuPage, Kane, Lake, McHenry or Will in the State (the "Six-County Region") that has the majority of its regular, full-time work force located within the Six-County Region and/or a business which has been placed on the vendors list maintained by the Purchasing Agent and/or has bid on or sought County work.

Program means the Minority and Women Owned Businesses Enterprise Program established herein.

Protected Class Enterprise (PCE), for the purposes of this Program, shall mean those businesses qualifying under the definitions of *Minority Business Enterprise* and *Women's Business Enterprise* contained in this section.

Purchasing Agent means the Purchasing Agent of the County.

Women's Business Enterprise (WBE) means a certified participating business at least 51 percent of which is owned and controlled by one or more women, or, in the case of a publicly held corporation, 51 percent of the stock of which is owned by one or more women and whose daily business operations are controlled by one or more such individuals. Determination of whether a business is at least 51 percent owned by a woman or women shall be made without regard to community property laws.

Sec. 34-2784. Staffing and responsibilities for affirmative action.

(a) *Contract Compliance Committee.* The members of the County Board shall elect, from the Board membership, a Contract Compliance Committee ("CCC") which shall consist of seven members of the County Board and which shall hereinafter become and remain a permanent Standing Committee of the County Board.

(b) *Contract Compliance Administrator.*

- (1) The provisions of this division and the affirmative action/procurement program ("program") established hereunder shall be administered, supervised and monitored by a Contract Compliance Administrator ("CCA") and staff.
- (2) The Contract Compliance Administrator's duties shall include (but not be limited to) the following areas:
 - a. Devising a certification procedure to assure that businesses taking advantage of this division are legitimate minority- or female-owned businesses.
 - b. Maintaining a list of all bona fide, certified businesses.
 - c. Recommending guidelines and regulations for the use of Protected Class Enterprise participation procedures which shall be approved by the Contract Compliance Committee prior to submission to the County Board. These guidelines shall include, but shall not be limited to, definition of goals; conditions warranting and limiting waivers; and establishment of procedures for participation in the program.
 - d. Recommending enforcement procedures which shall be approved by the Contract Compliance Committee prior to submission to the County Board, whereby the Committee may recommend to the State's Attorney that the County exercise its legal remedies to ensure reasonable and timely progress toward established goals and to prevent prime contractors from engaging in any practices through which they qualify for protected participation on the basis of misrepresentation of subcontracts or qualifications of subcontractors.
 - e. Insuring the County's conformance with Federal and State affirmative action and equal employment opportunity laws and regulations.
 - f. Participating in all purchasing, bidding, and awards processes.
 - g. Participating in all precontract conferences.
 - h. Maintaining liaison with community groups.
 - i. Investigating affirmative action complaints, and reporting findings to the Contract Compliance Committee for presentation to the County Board.

- j. Maintaining liaison with contractor, professional, and supplier groups and associations.
 - k. Providing technical assistance to appropriate County departments, offices, and divisions in drawing specifications to include opportunities for minority- and women-owned businesses.
 - l. Generating publicity, through media appearances and public speaking engagements, to provide information and clarification about the program to as broad-based an audience as possible.
 - m. Recommending measures for revision and updating of the program as the need is indicated.
- (3) Various parts of this program require information on the County's business and contracting activities be widely disseminated throughout the protected class community.

(c) *Purchasing Agent.* The Purchasing Agent shall take whatever steps are necessary to ensure that the purchasing staff views the implementation of this division as a priority. The Purchasing Agent shall report quarterly to the Contract Compliance Administrator on the status of the program and shall be responsible for the following duties:

- (1) A listing of minority vendors and suppliers shall be prepared by the Purchasing Department and continually updated. This listing may use, but shall not be limited to, the County's Protected Class Enterprise Directory; and updating of this list should be forwarded to the Contract Compliance Administrator;
- (2) All new vendors on this list shall be forwarded bidders list forms and instructions; these forms and instructions shall also be distributed to protected class vendors at conferences and workshops;
- (3) All Protected Class Enterprise vendors who complete the bidders list forms shall become part of the bidders list and shall be sent notice of upcoming bids related to the Protected Class Enterprise's business at the same time that such notice is sent to all prospective bidders;
- (4) All Protected Class Enterprise vendors who become part of the bidders list shall have their records coded so that the vendor's history kept by the Purchasing Department will show a monthly accounting of Protected Class Enterprise purchases which can be reviewed by the Contract Compliance Administrator;
- (5) All staff in the Purchasing Department shall take part in periodic training, with respect to making purchases from protected class companies; the Contract Compliance Administrator shall be consulted by the Purchasing Agent with regard to these training efforts and shall monitor both the training content and procedures;

- (6) The Purchasing Agent, in conjunction with the Contract Compliance Administrator, shall set up procurement "best effort" guidelines for the various members of the procurement staff; these guidelines shall set the standards by which Purchasing Department staff will seek to make purchases from protected businesses; they shall also serve as a measure for the compliance review of the department with respect to the protected class program; these "best effort" guidelines shall include, but shall not be limited to, the following:
- a. Assist in identifying protected class suppliers and/or vendors located in greater Cook County area, by product or service line, and assessing their present capability and long-term business potential with the County.
 - b. Aggressively pursue protected class suppliers, seeking out qualified and qualifiable protected class businesses in deliberate outreach efforts.
 - c. Review expected purchases on a continuous basis with the aim of matching potential protected class vendors and projected needs.
 - d. Arrange meetings with management of vendors, and make facility visits where appropriate.
 - e. Provide information to potential protected class suppliers regarding the County's purchasing policies and requirements.
 - f. Provide information to protected class suppliers or vendors regarding the County's competitive standards and prices.
 - g. Maintain accurate recordkeeping of all efforts and actual purchases made from protected class companies.

Sec. 34-2795. Application of division.

This division shall be applied to all County contracts, including those contracts under which there are residency qualifications, except to the extent it may be inconsistent with any applicable State or Federal statute, regulation or program.

Sec. 34-28076. Program goals.

- (a) In fulfillment of its policy to promote equal opportunity in its procurement process, the County establishes the goal that Protected Class Enterprises shall participate in not less than 35 percent of the annual aggregate value of all contracts awarded by the County. County procurement personnel will make their best efforts to recruit and solicit bids and make purchases from qualified Protected Class Enterprises.
- (1) Not less than 25 percent of the annual total dollar amount of County contracts and 30 percent of the annual total dollar amount of construction contracts will be established as a goal to be awarded to Minority Business Enterprises.

- (2) Not less than ten percent of the total dollar amount of County contracts, will be established as a goal to be awarded to Women's Business Enterprises.
- (3) The above stated percentages relate to the total dollar amount of County contracts during each fiscal year calculated by examining independently each type of contract.
 - (b) The County shall comply with all applicable Federal and State policies requiring affirmative action to increase the employment opportunities of minority and female workers on its construction projects.
 - (c) No goal shall be treated as a quota nor shall it be used to discriminate against any person or business enterprise on the basis of race, color, national origin, religion or sex.

Sec. 34-28477. Implementation.

(a) Contract goals.

- (1) To achieve the goals stated in Section **34-28076**, the Purchasing Agent, except as provided in Subsection (a)(2) of this section, shall include in the bid specifications a requirement that each contractor commit that Minority Business Enterprise and Women's Business Enterprise participation in the contract will equal at least 25 percent (30 percent in the case of construction contracts) and ten percent, respectively, of the total dollar value of the contract.
- (2) The Contract Compliance Administrator shall evaluate the applicability of the Minority Business Enterprise and Women's Business Enterprise goals to a specific contract. Where the Contract Compliance Administrator, in consultation with the Purchasing Agent and the user Departments, determines that the established goals are not appropriate for a specific contract because of its particular requirements, the Contract Compliance Administrator shall set an appropriate goal for the contract, based upon the availability of Protected Class Enterprises which are capable of providing the goods and/or services required by the particular contract, the past level of Protected Class Enterprise participation in similar contracts, the specifications of the contract and any other criteria adopted by the Contract Compliance Administrator.
- (3) The applicable goals for a specific contract shall be designated in the contract specifications.

(b) Contractor responsibility and requirements.

- (1) As a precondition to selection, each contractor shall submit with its bid a completed and signed utilization plan which lists the names, addresses and contact persons of businesses intended to be used as Protected Class Enterprises on the contract, the type and scope of work or service each business will perform and the dollar amount to be allocated to each Protected Class Enterprise. Such listing shall not be duplicative (e.g., two or more entities each listed as performing 100 percent of the same work or service). Within three business days following submission of bids, a bidder shall submit its letters of intent to Protected Class Enterprises listed on its utilization plan, provided that no substitutions shall be permitted prior to bid award. Each contractor's utilization plan shall commit to Protected Class Enterprise participation equal to or greater than each of the applicable Protected Class Enterprise goals, unless the contractor requests a partial or total waiver of the requirement that it file a utilization plan or achieve a particular goal for Protected Class Enterprise participation by submitting with the filing of its bid a signed waiver request form.
- (2) Notwithstanding its compliance with any other requirement of County ordinances and contract specifications, no bidder or offeror shall be awarded an eligible contract unless the Contract Compliance Administrator has approved its utilization plan or granted a waiver on the contract. Such utilization plan shall be designed to meet the applicable Minority Business Enterprise and Women's Business Enterprise goals set for such project and shall be incorporated into the contract.
- (3) A contractor may achieve the applicable Protected Class Enterprise goals by its status as a Protected Class Enterprise or by joint venture with one or more Protected Class Enterprises or by subcontracting a portion of the work to one or more Protected Class Enterprises or by purchase of materials or services from one or more Protected Class Enterprises or by the indirect participation of Protected Class Enterprises in other aspects of the contractor's business such as through a Mentor/Protege agreement as provided herein (in accordance with applicable guidelines and provided that such Protected Class Enterprise indirect participation may not be credited toward goal attainment on more than one contract subject to this article) or by any combination of the above, subject to the following guidelines:
 - a. *Joint ventures.* Where a contractor engages in a joint venture to satisfy its affirmative action commitment, the Contract Compliance Administrator shall review the profits and losses, initial capital investment, actual participation of the joint venture partners in the performance of the contract, and other pertinent factors to determine the amount of credit to be granted for the joint venture toward attainment of the applicable Minority Business Enterprise and Women's Business Enterprise goals. The Contract Compliance Administrator may review all records pertaining to joint venture agreements before or after the award of a contract in order to assess compliance with this article. A contractor shall receive credit towards achievement of the applicable goals in proportion to the percentage of the contract to be performed by the Protected Class Enterprise, provided that the Contract Compliance Administrator may deny or limit Protected Class Enterprise credit to a contractor where the Protected Class Enterprise joint venture partner is found not to be performing a commercially useful function

or not to have duties, responsibilities, management control or risk with respect to the joint venture commensurate with or in proportion to its joint venture ownership.

- b. *Subcontracts.* A contractor may count toward its Protected Class Enterprise goals only expenditures to Protected Class Enterprises that perform a commercially useful function in the performance of a contract for work actually performed or materials supplied by the Protected Class Enterprise. To determine whether a Protected Class Enterprise is performing a commercially useful function, the Contract Compliance Administrator may evaluate the amount of work subcontracted, industry practices, whether the Protected Class Enterprise has the skill and experience to perform the work for which it is being utilized and other relevant factors. Consistent with normal industry practices, a Protected Class Enterprise subcontractor may enter into second tier subcontracts. However, if a Protected Class Enterprise contractor or subcontractor subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices, the Minority Business Enterprise or Women's Business Enterprise shall be presumed not to be performing a commercially useful function.
- c. *Manufacturers and suppliers.* Where a contractor utilizes one or more suppliers to achieve its Protected Class Enterprise goals, such Protected Class Enterprise supplier participation may be 100 percent credited toward goal attainment where the Protected Class Enterprise supplier manufactures the goods supplied or where such Protected Class Enterprise supplier owns or operates a store, warehouse or other establishment (and related distribution equipment) in which it maintains, consistent with industry standards, an inventory of the materials or supplies required for performance of the contract for sale in the normal course of business. The participation of a Protected Class Enterprise supplier who acts as a broker (i.e., who performs no manufacturing or warehousing) shall be credited toward the applicable Protected Class Enterprise goals at a rate equal to ten percent of the payments to such Protected Class Enterprise broker.
- d. *Protected Class Enterprise prime contractors or joint venturers.* A Minority Business Enterprise or Women's Business Enterprise contractor may count its own participation toward the achievement of the applicable Minority Business Enterprise or Women's Business Enterprise goal, respectively, but such a contractor will be required to meet all other applicable goals by joint ventures, subcontracting or purchase of materials or services. Where a contractor is a business owned and controlled by minority women ("M/WBE") or where the contractor utilizes a M/WBE in a joint venture, as a subcontractor or a supplier, the contractor may count the M/WBE participation either toward the achievement of its Minority Business Enterprise or Women's Business Enterprise goal but not both.

e. *Mentor/protege agreements.* Where a contractor enters into a written agreement ("mentor/protege" agreement) with a Protected Class Enterprise to improve or develop certain aspects of the business of the Protected Class Enterprise, such an agreement may be evaluated by the Contract Compliance Administrator to assess appropriate credit toward the Protected Class Enterprise goals of the contractor. The contractor and Protected Class Enterprise shall remain separate and independent business entities under the agreement. The mentor/protege agreement may provide for the contractor to assist the Protected Class Enterprise in such areas as technical aspects of its business, improving financial management, or providing on-the-job training. No such credit shall be available unless:

1. The Protected Class Enterprise provides a commercially useful function in the performance of its agreement with the contractor;
 2. The agreement is in writing and is submitted to the Contract Compliance Administrator before the award of the contract; and
 3. The agreement clearly defines the respective responsibilities of the contractor and the Protected Class Enterprise and includes specific, measurable goals to be attained by both parties through the performance of the agreement. Upon recommendation by the Contract Compliance Administrator, the Contract Compliance Committee shall determine the amount of credit to be counted toward the applicable goals of this division. The Contract Compliance Administrator shall require the contractor to submit periodic reports summarizing the progress of the execution of the mentor/protege agreement, and shall notify both parties of any deficiencies in performance. In order to qualify for credit, the mentor/protege agreement must coincide in duration with, or not be for a shorter length of time than, the contract between the contractor and the County.
- (4) Where a contractor seeks relief from all or part of a contract's goals, the contractor shall submit with its bid a proposal or request for a waiver.
- (5) A contractor's submission of a utilization plan which commits to a Protected Class Enterprise participation goal equal to or greater than the applicable goals shall not provide a basis for a higher bid, an increase in contract price or later change order.
- (c) *Review of bid or offer.*
- (1) The Contract Compliance Administrator shall review each bid or offer to determine if the contractor has included in its submission a completed and signed utilization plan which meets the Protected Class Enterprise goals for the contract, and approve or reject the plan.

- (2) The Purchasing Agent, at the direction of the Contract Compliance Administrator, shall declare the bid or offer nonresponsive where the Contract Compliance Administrator determines that a contractor:
 - a. Failed to submit with its bid a completed utilization plan;
 - b. Failed to identify in its plan sufficient Minority Business Enterprises and/or Women's Business Enterprises by name, scope of work and dollar value of work to meet the applicable goals for the contract; or
 - c. Failed to submit with its bid a request for a total or partial waiver of the applicable goals.
- (3) Where a partial or total request for waiver of a goal is made, the Contract Compliance Administrator shall determine whether a bidder or offeror has made good faith efforts to meet the applicable Protected Class Enterprise goals and whether a total or partial waiver of a goal should be granted. Good faith efforts, as defined herein, shall include, but are not limited to, the following:
 - a. Attend any prebid conference conducted by the County to acquaint contractors with Protected Class Enterprises available to provide relevant goods and services and to inform Protected Class Enterprise's of subcontract opportunities on the contract;
 - b. Review lists of available Protected Class Enterprises maintained by the County and other State and local governments and agencies prior to the bid opening to identify qualified Protected Class Enterprises for solicitation for bids;
 - c. Advertise, not less than 15 calendar days before the bid opening date, in one or more daily newspapers and/or trade publications, for bids by Protected Class Enterprises for subcontracts or the supply of goods and services on the contract;
 - d. Make timely written solicitations of available Protected Class Enterprises identified on the County's list as providing relevant services for bids for subcontracts or the supply of goods and services; and provide Protected Class Enterprises with a convenient and timely opportunity to review and obtain relevant plans, specifications or terms and conditions of the contract to enable such Protected Class Enterprises to prepare an informed response to a contractor solicitation;
 - e. Divide total contract requirements into small tasks or quantities and adjust performance bond and insurance requirements or otherwise assist Protected Class Enterprises in obtaining the required bonding, insurance or financing, where economically feasible, to encourage participation of Protected Class Enterprises;

- f. Follow up initial solicitation of Protected Class Enterprises by contacting Protected Class Enterprises to determine if the enterprises are interested in making bids;
 - g. Negotiate in good faith with Protected Class Enterprises prior to the bid opening and do not reject as unsatisfactory any bids submitted by Protected Class Enterprises without justifiable reason;
 - h. Establish delivery schedules, where the requirements of the work permit, which will encourage participation by Protected Class Enterprises;
 - i. Establish joint ventures with Protected Class Enterprises;
 - j. Use the services and assistance of the Contract Compliance Administrator's staff, the Small Business Administration, the Office of Minority Business Enterprises of the U.S. Department of Commerce and where the contractor seeks a waiver, make timely notice of the need for Protected Class Enterprise subcontractors to an appropriate community and minority and women's business organization identified as an assist agency with respect to this article.
- (4) A contractor seeking a total or partial waiver shall, in accordance with guidelines issued by the Contract Compliance Administrator, be required to submit evidence of its good faith efforts to achieve the applicable Protected Class Enterprise goals and in support of its reasons for seeking a waiver. Performance of all the actions set out in Subsection (c)(3) of this section by the contractor shall create a rebuttable assumption that the contractor has made good faith efforts to meet the applicable Protected Class Enterprise goals. The determination of the adequacy of a contractor's good faith efforts will be evaluated on the basis of the contractor's actions as of the date of the bid opening.
- (5) The Contract Compliance Administrator may grant the waiver request of a contractor based upon the following criteria:
 - a. Sufficient qualified Protected Class Enterprises capable of providing the goods or services required by the contract are unavailable despite the good faith efforts of the contractor;
 - b. The specifications of and the reasonable and necessary requirements for performing the contract make it impossible or economically infeasible to divide the contract into sufficiently small tasks or quantities to enable the contractor to utilize Protected Class Enterprises in accordance with the applicable utilization goals;
 - c. The price quoted by any potential Protected Class Enterprise source of goods or services is more than ten percent above competitive levels; and
 - d. Any other factor determined to be relevant by the Contract Compliance Administrator.

- (6) Where a partial waiver is granted, the Contract Compliance Administrator shall specify the amount of the applicable goal.
- (7) Where the Contract Compliance Administrator determines that a contractor has not made a good faith effort to meet the applicable goals and/or comply with the provisions herein, including, but not limited to, failing to timely submit the required letters of intent or other information request and/or has not otherwise met the requirements for a total or partial waiver, the Purchasing Agent may declare the contractor nonresponsive and reject the bid and reject any waiver request which may have been filed.
- (8) Where the Contract Compliance Administrator determines that the utilization plan submitted by a contractor is false or fraudulent, the Purchasing Agent shall reject the bid or, if such a determination is made after the bid award, the contract may be forfeited and canceled.

(d) *Subcontract requirements.* Within 30 days after demand, the prime contractor shall furnish fully executed copies of all protected class subagreements and these shall be reviewed by the Contract Compliance Administrator and submitted to the Contract Compliance Committee of the County Board. Subsequently, the prime contractor shall obtain and submit a copy of all Minority Business Enterprise or Women's Business Enterprise related subtier contracts on demand.

(e) *Review of contract performance.*

- (1) The Contract Compliance Administrator shall review the contractor's efforts during the performance of the contract to achieve its Protected Class Enterprise commitments as stated in its utilization plan. If the contractor meets or exceeds its stated goals, it shall be presumed to be in compliance. Where the Contract Compliance Administrator finds that the contractor has failed to achieve its stated goals or otherwise has failed to comply with the requirements of the division, including failure to provide any documentation required by the Contract Compliance Administrator, has not satisfactorily demonstrated good faith efforts, and/or has deviated without authorization from the compliance related portions of the contract as originally approved, the Contract Compliance Administrator shall report findings to the Contract Compliance Committee.
- (2) The Contract Compliance Administrator may establish such requirements for periodic contractor reporting on the fulfillment of its goals and its utilization of Protected Class Enterprises as the Contract Compliance Administrator determines appropriate and necessary for effective enforcement of this division. A contractor also shall be required to provide the Contract Compliance Administrator any additional requested compliance documentation within 14 days of such request.
- (3) If the Contract Compliance Committee determines that the contractor has failed to comply with its contractual commitments or any portion of this division, the Contract Compliance Committee will notify the contractor of such noncompliance and may take any of the following actions:

- a. Instruct the Comptroller to withhold 50 percent of the current progress payment due the prime contractor.
- b. Withhold up to 100 percent of further progress payments until the contractor demonstrates that it is in compliance with the requirements of this division.
- c. Debar the contractor from future bids or offers until the contractor demonstrates that it is in compliance with the requirements of this division.

(f) *Protected Class Enterprise bid and target market programs.* To address more specifically the barriers to Protected Class Enterprise participation as prime contractors in County work, the Contract Compliance Administrator may direct the Purchasing Agent to institute the following special Protected Class Enterprise bidding provisions, following determination of the appropriateness of such provisions.

- (1) In connection with the award of a contract subject to competitive bidding on which a Protected Class Enterprise has bid and where the Protected Class Enterprise meets the following criteria:
 - a. It is bidding on the item in question for the first time; and
 - b. It never has successfully bid on a Cook County purchasing contract, the Contract Compliance Administrator may, at the opening of the bids on the item, compare the Protected Class Enterprise bid with the lowest bid, and, if the Protected Class Enterprise's bid is closely competitive as defined by guidelines to be established by the Contract Compliance Administrator with that of lowest actual bids, direct the Purchasing Agent to declare the Protected Class Enterprise the successful bidder. A Protected Class Enterprise may use this procedure only once to become the successful bidder on any particular item. Thereafter, the Protected Class Enterprise must be totally competitive in terms of price to be the successful bidder.
- (2) The Contract Compliance Administrator shall develop and coordinate a target market program as follows:
 - a. The Contract Compliance Administrator shall review the availability of Protected Class Enterprises providing various goods and services and shall identify for inclusion in a potential program for bidding among Protected Class Enterprise firms certain commodity areas with sufficient Protected Class Enterprise availability to ensure that the County receives a competitive price. The Contract Compliance Administrator shall report his/her findings and recommendations to the Contract Compliance Committee;
 - b. Upon a determination by the Contract Compliance Committee that such a program is advisable for any particular commodity procurement, the Contract Compliance Administrator will institute the following procedures:

1. The Contract Compliance Administrator will notify the Purchasing Agent of identification of those commodity codes appropriate for a target market program;
 2. To the extent practicable, the Purchasing Agent, with the aid of the Contract Compliance Administrator, shall divide procurement in the designated commodity areas into economically feasible sizes to facilitate bids or offers from Protected Class Enterprises and shall designate contracts to be offered under the target market program;
 3. The Purchasing Agent shall offer Protected Class Enterprises the opportunity to bid on such contracts in a limited competition;
 4. All standard County rules for bidding will then become effective and, provided that at least three Protected Class Enterprises bid or make an offer on the contract, the lowest responsive and responsible bidder among the Protected Class Enterprise firms will receive the contract;
 5. In the event less than three Protected Class Enterprises bid or make an offer on the contract or if there is no responsive bid or offer received from a responsible Protected Class Enterprise, the Purchasing Agent shall rebid the contract not subject to the target market program.
- c. Participation in the target market program shall be limited to Minority Business Enterprises, Women's Business Enterprises and joint ventures consisting exclusively of Minority Business Enterprises, Women's Business Enterprises or both. The Protected Class Enterprise contractor on a target market contract may subcontract up to 50 percent of the dollar value of the target market contract to subcontractors who are not Minority Business Enterprises or Women's Business Enterprises.

(g) *Fifty percent Protected Class Enterprises required for informal bid solicitations.* All buyers shall solicit 50 percent PCEs in their informal bid solicitations for materials under \$10,000.00, which are not bid by formal advertising.

(h) *Buyers to use Protected Class Enterprises in requisitions.* All buyers will make every effort to use *Protected Class Enterprises* whenever possible in their requisitions for materials under \$10,000.00, which are not bid.

(i) *Division of large contracts to facilitate offers from Protected Class Enterprises.* With respect to large contracts for which subcontracting possibilities are impracticable, all buyers will, to the extent practicable, divide such contracts into economically feasible sizes to facilitate bids or offers from *Protected Class Enterprises*.

(j) *Technical assistance.* The contractor is bound by all the requirements, terms, and conditions of this article. Subsequent to the acceptance of an awarded contract, there will be no waiver of the requirements, terms and conditions. The County Board, through its Contract Compliance Committee and the Contract Compliance Administrator, will make technical assistance in meeting the terms and conditions of this article available to all interested bidders.

(k) *Finance; measures for reduction of cash flow problems of protected class contractors.*

- (1) As needed, the Contract Compliance Administrator shall assist *Protected Class Enterprises* with training seminars in the technical aspects of preparing a bid for a County contract.
- (2) All prime contractors shall be urged to follow the County's example by making prompt and timely payments to Protected Class Enterprise subcontractors working on Cook County projects. The timeliness of such payments shall be monitored by the Contract Compliance Administrator on a regular basis, and an investigation shall be made of every complaint or charge of excessive delay in payment. Reports of these investigations shall be made to the Contract Compliance Committee and to the County Comptroller.
- (3) If at any time during the progress of the work, the contractor shall fail or neglect to pay a Protected Class Enterprise subcontractor for any labor performed, furnished, or tools, machinery, appliances, fuels, provisions or supplies of any sort or kind used or consumed upon, in or on account of the work for ten days after payment for same shall become due, then the County shall have the power and authority to pay such indebtedness, and the amount so paid shall be retained out of the money due or to become due the contractor. The County Comptroller may refuse to make the payment hereinafter specified to the extent of such indebtedness, until satisfactory evidence in writing has been furnished that the indebtedness has been discharged. In any such case, the Purchasing Agent is hereby authorized and empowered by the contractor to ascertain the amount due or owing from the contractor to any laborer or laborers, or to any person or persons, or corporation, for labor, equipment, material, tools, machinery, appliances, provisions, fuels, or supplies of any sort or kind consumed upon, in or on account of the work covered by this contract in such manner and upon such proofs as may be deemed sufficient.
- (4) The County Board shall encourage major prime contractors to make available to Protected Class Enterprise subcontractors working on their projects their sources of financial assistance.

(l) *Contract award considerations.* Where the lowest responsive contractor submits a bid/offer which exceeds by ten percent or more the bid/offer of the lowest PCE nonresponsive contractor ["PCE nonresponsive" for purposes of this subsection means nonresponsive pursuant to Subsection (c)(2) of this section, but otherwise responsive to the contract specifications], the County shall have the right to reject all bids/offers and rebid or request further offers.

Sec. 34-28278. Professionals and consulting services and sole source agreements.

All Department heads who may employ the professional services of accountants, attorneys, physicians, dentists, statisticians, data analysts, engineers, and other such personnel or who require goods or services procured through sole source agreements shall implement this article and compliance programs in a "best effort" manner. In lieu of the requirements set forth in Section **34-28177(b)**, all providers of such professional services or goods or services are to be notified that:

- (1) In the case of term contracts (annually or for more than six months), they are to maximize the use of Protected Class Enterprises or individuals as subconsultants or subcontractors.
- (2) In the case of contracts instituted on an as-needed basis or lasting less than six months, they are to submit to the County affirmative action plans and goals and maximize the number of women and minority professionals in their firm who participate in various County projects.
- (3) In both of the above cases the internal affirmative action plans and goals of the providers shall be submitted to the Contract Compliance Administrator and shall be reviewed against the provider's actual affirmative action achievements and shall become a part of the provider's protected class compliance review; this twice yearly review by the Contract Compliance Administrator shall become a factor in the County's continued use of the services of providers.
- (4) The County sets a "best efforts" goal of 35 percent Protected Class Enterprise participation for the total professional services and consulting services utilized by the County. The County must be able to call upon those professionals whose particular training and experience most closely fit our needs. The County shall endeavor to increase utilization of protected class firms. Because use of such services is not programmed or predictable, a "best effort" standard shall be used for attainment of the goal amounts.

Sec. 34-28379. Other Federal and State regulations.

Nothing in this division shall be interpreted to diminish or supplant equal employment opportunity requirements contained in Federal or State grant funded contracts.

Sec. 34-2840. Preference to residents of County.

In addition to the goals established pursuant to Section **34-28076**, there is established as a goal that on any contract approved by the County Board there will be utilization of at least 50 percent bona fide County residents and 30 percent minorities in each trade for each project awarded by the County and in the aggregated workforce in each project five percent will be females.

Sec. 34-2851. Reporting and review Preference to Service-Disabled Veteran Businesses.

The County Board directs the Contract Compliance Administrator to report to the County Board on an annual basis with respect to the following:

- (1) ~~The level of Protected Class Enterprise participation achieved in each year in County contracts subject to this division;~~
- (2) ~~The then current estimated availability of Protected Class Enterprises to perform County contracts;~~
- (3) ~~An evaluation of the effectiveness of the article in ensuring full and equitable participation by Protected Class Enterprises in County contracts and in mitigating the competitive disadvantage suffered by Minority Business Enterprises and Women's Business Enterprises due to the present effects of discrimination in the local economy and award public contracts;~~
- (4) ~~An assessment of the continuing need for utilization goals for specific types of goods and services used in County contracts;~~
- (5) ~~Identification of any enforcement problems; and~~
- (6) ~~Any recommendations with respect to improving the County's effectiveness in remedying the effects of discrimination against Minority Business Enterprises and Women's Business Enterprises and/or discontinuing or modifying any affirmative action requirements in those cases where Minority Business Enterprises and Women's Business Enterprises no longer are disadvantaged by the effects of discrimination in their participation in County contracts.~~

(a) Definitions. For the purposes of this section:

The term *service-disabled* means, with respect to disability, that the disability was incurred or aggravated in the line of duty in the active service in the United States Armed Forces;

The term *service-disabled veteran* means a veteran who served in the active military, naval, or air service, and who was discharged or released there from under conditions other than dishonorable, with a disability that is service-connected, such that the disability was incurred or aggravated in the line of duty in the active military, naval, or air service;

The term *service-disabled veteran business* means a small business concern owned and controlled by service-disabled veterans such that:

- (1) not less than 51 percent of which is owned by one or more service-disabled veterans; and
- (2) the management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

The term *small business concern* shall be deemed to be one which is independently owned and operated and which is not dominant in its field of operation.

(b) ~~The goals in this section shall be identical to the goals in Section 34-280 of this Code.~~ In addition to the goals established pursuant to Section 34-28076, there is established as a goal that on any contract approved by the County Board there will be utilization of at least 3 percent service-disabled veteran businesses of the annual aggregate value of all contracts awarded by the County.

(c) County procurement personnel will make their best efforts to recruit and solicit bids and make purchases from qualified service-disabled veteran businesses.

(d) The above stated percentage relates to the total dollar amount of County contracts during each fiscal year calculated by examining independently each type of contract.

(e) The above stated goal shall not be treated as a quota nor shall it be used to discriminate against any person or business enterprise on the basis of race, color, national origin, religion or sex.

(f) The Contract Compliance Administrator shall have the responsibility to implement and enforce said goal in the same manner in which the office enforces the MBE and WBE programs under Section 34-274 through Section 34-277 of this division.

(g) The President of the Cook County Board of Commissioners shall establish by executive order a task force, which shall work in conjunction with the Office of the Purchasing Agent and the Office of Contract Compliance and be comprised of representatives from the Cook County Veterans Assistance Commission, Illinois Department of Veterans' Affairs and the Cook County Board, in order to consult with veterans' service organizations and the business community, including qualified disabled veterans' businesses to ensure participation in the County procurement process and that the above stated goal is met.

Sec. 34-282. Reporting and review.

The County Board directs the Contract Compliance Administrator to report to the County Board on an annual basis with respect to the following:

- (1) The level of Protected Class Enterprise participation achieved in each year in County contracts subject to this division;
- (2) The then current estimated availability of *Protected Class Enterprises* to perform County contracts;

- (3) An evaluation of the effectiveness of the article in ensuring full and equitable participation by *Protected Class Enterprises* in County contracts and in mitigating the competitive disadvantage suffered by Minority Business Enterprises and Women's Business Enterprises due to the present effects of discrimination in the local economy and award public contracts;
- (4) An assessment of the continuing need for utilization goals for specific types of goods and services used in County contracts;
- (5) Identification of any enforcement problems; and
- (6) Any recommendations with respect to improving the County's effectiveness in remedying the effects of discrimination against Minority Business Enterprises and Women's Business Enterprises and/or discontinuing or modifying any affirmative action requirements in those cases where Minority Business Enterprises and Women's Business Enterprises no longer are disadvantaged by the effects of discrimination in their participation in County contracts.

Secs. 34-283—34-285. Reserved.

Effective date: This amended ordinance shall be in effect immediately upon adoption.

308452 ESTABLISHING AN INTERGOVERNMENTAL TASK FORCE (PROPOSED RESOLUTION). Submitting a Proposed Resolution sponsored by Earlean Collins, County Commissioner. Co-sponsored by William M. Beavers, Jerry Butler, Forrest Claypool, John P. Daley, Bridget Gainer, Elizabeth "Liz" Doody Gorman, Gregg Goslin, Joseph Mario Moreno, Joan Patricia Murphy, Edwin Reyes, Timothy Schneider, Peter N. Silvestri, Deborah Sims, Robert B. Steele and Larry Suffredin, County Commissioners.

PROPOSED RESOLUTION

WHEREAS, Cook County is a home rule unit of local government pursuant to Article VII Section 6(a) of the 1970 Illinois Constitution, and as such may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, our existing Emergency Management office has been doing a superb job in assisting the 2008 and 2010 flood victims with the limited resources that they have to work with. It is paramount that Cook County establish a collaborative funding source to minimize the impact of future flooding; and

WHEREAS, it is evident that the antiquated infrastructure system in most of suburban Cook County lacks the capacity to deal with water flow when there is heavy rain fall in a short period of time as was the case in the 2008 and 2010 flood; and

WHEREAS, the Federal government, the State, the County and local municipalities have separate roles in assisting with emergency management and each of these entities have a specific role and monies to address certain emergencies. A collaborative effort among these agencies will allow Cook County to better assist suburban municipalities in water drainage management.

NOW, THEREFORE, BE IT RESOLVED, that the President and the Cook County Board of Commissioners establish an Intergovernmental Task Force consisting of department heads from the following agencies; Metropolitan Water Reclamation District, Cook County Department of Highways, Bureau of Capital, Planning and Facilities Management, Homeland Security & Emergency Management, the Cook County Bureau of Finance, and the Cook County Bureau of Community Development, to review our existing emergency management systems to seek ways to improve emergency assistance and minimize the impact of flooding in suburban Cook County.

***Referred to the Legislation, Intergovernmental & Veterans Relations Committee on 09-01-10.**

Commissioner Collins, seconded by Vice Chairman Silvestri, moved the approval of Communication No. 308452. The motion carried.

308453 IN SUPPORT OF ADDITIONAL FEDERAL FUNDING FOR METROPOLITAN WATER RECLAMATION DISTRICT RESERVOIR PROJECTS (PROPOSED RESOLUTION). Submitting a Proposed Resolution sponsored by Peter N. Silvestri, John P. Daley, Larry Suffredin, Earlean Collins and Elizabeth "Liz" Doody Gorman, County Commissioners.

PROPOSED RESOLUTION

IN SUPPORT OF ADDITIONAL FEDERAL FUNDING FOR METROPOLITAN WATER RECLAMATION DISTRICT RESERVOIR PROJECTS

WHEREAS, Cook County has increasingly experienced flooding issues due to development and inadequate flood retention areas; and

WHEREAS, these increasing flooding issues have caused tremendous damage to property and person; and

WHEREAS, response and reaction to the flooding has been admirable from all levels of government; and

WHEREAS, all governments, working together, must take even greater measures to prevent such frequent flooding with the assistance of federal and state funding.

NOW, THEREFORE, BE IT RESOLVED, that the federal government must provide additional and greater funding to complete water reservoir retention projects, through the Metropolitan Water Reclamation District; and

BE IT FURTHER RESOLVED, that the Governor and state legislature petition and request the federal government to transfer remaining 2008 FEMA funds for 2010 program distribution; and

BE IT FURTHER RESOLVED, that the state government also assist in any funding to complete these necessary reservoir projects and any other Metropolitan Water Reclamation District flood relief projects.

***Referred to the Legislation, Intergovernmental & Veterans Relations Committee on 09-01-10.**

Vice Chairman Silvestri, seconded by Commissioner Daley, moved to approve Communication No. 308453.

Vice Chairman Silvestri, seconded by Commissioner Daley, moved to accept the Substitute Resolution for Communication No. 308453. The motion carried.

Vice Chairman Silvestri, seconded by Commissioner Daley, moved to approve the Substitute Resolution. The motion carried.

SUBSTITUTE RESOLUTION FOR COMMUNICATION NUMBER 308453

Sponsored by:

**THE HONORABLE PETER N. SILVESTRI AND LARRY SUFFREDIN,
COOK COUNTY COMMISSIONERS**

**IN SUPPORT OF THE METROPOLITAN WATER RECLAMATION DISTRICT
OF GREATER CHICAGO'S McCOOK AND THORNTON RESERVOIR PROJECT**

WHEREAS, the McCook and Thornton Reservoir projects are a key component of the Army Corps of Engineers' Chicago Underflow Plan (CUP), the flood control element of the Metropolitan Water Reclamation District of Greater Chicago's Tunnel and Reservoir Plan (TARP); and

WHEREAS, TARP is the long-term comprehensive flood pollution control solution for Cook County and the surrounding communities, and includes a series of underground tunnels and storage reservoirs designed to address combined sewer overflow discharges; and

WHEREAS, TARP already has provided dramatic water quality improvements including the protection of Lake Michigan, the source of our drinking water and vital pollution control to over 3.5 million Illinois residents; and

WHEREAS, TARP has been enormously effective in achieving its goal as evidenced by the elimination of 85% of the combined sewage pollution in the 325 square mile area and providing over \$469 million in flood damage prevention to date; and

WHEREAS, the McCook Reservoir is currently under construction by the U.S. Army Corps of Engineers and upon completion will have a total capacity of 10 billion gallons of flood water/combined sewer overflow storage and will provide more than \$90 million per year in benefits to 37 communities including the protection of over 1,240,000 structures; and

WHEREAS, the Thornton Reservoir is currently under advanced construction by the Metropolitan Water Reclamation District of Greater Chicago for the U.S. Army Corps of Engineers and upon completion will have a total capacity of 7.9 billion gallons of flood water/combined sewer overflow storage and will provide more than \$40 million per year in benefits to 15 communities including the protection of over 182,000 structures;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of Cook County urges the Congress and the U.S. Army Corps of Engineers to provide the necessary funding, \$40 million in fiscal year 2011, to complete the McCook and Thornton Reservoir project as well as continuing construction and reimbursement to the District to complete the Project on schedule; and

BE IT FURTHER RESOLVED, that a suitable copy of this Resolution be tendered to the Assistant Secretary of the Army Jo Ellen Darcy, members of the Illinois Congressional delegation, and may it also be spread upon the official proceedings of this Honorable Body.

Chairman Suffredin asked the Secretary to the Board to call upon the registered public speaker, in accordance with Cook County Code, Sec. 2-108(dd):

1. Jerry Elsner – Executive Director, Illinois State Crime Commissioner


Commissioner Schneider moved to adjourn the meeting, seconded by Commissioner Goslin. The motion carried and the meeting was adjourned.

**YOUR COMMITTEE RECOMMENDS THE FOLLOWING ACTIONS
WITH REGARD TO THE MATTER NAMED HEREIN:**

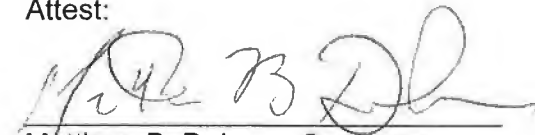
Communication Number 308428
Communication Number 308429
Communication Number 308452
Communication Number 308453

Approve
Substitute Approved as Amended
Approve
Substitute Approved

Respectfully submitted,
Committee on Legislation,
Intergovernmental & Veterans
Relations


Larry Suffredin, Chairman

Attest:


Matthew B. DeLeon, Secretary

An audio recording of this meeting is available in the Office of the Secretary to the Board, 118 North Clark Street, Room 567, Chicago, IL 60602.